

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
P.O. Box 45029
124 Halsey Street, Fifth Floor
Newark, NJ 07101

NEW JERSEY
CEMETERY BOARD
Jeanne L. Tomaroff

FILED

February 8, 2011

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY CEMETERY BOARD

IN THE MATTER OF :

BERGEN CREST MAUSOLEUM :

Certificate of Authority :
Number 144 :

Administrative Action

FINAL ORDER OF DISCIPLINE

This matter was opened to the New Jersey Cemetery Board upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Respondent, Bergen Crest Mausoleum (“the mausoleum”), holds Certificate of Authority Number 144 issued by the New Jersey Cemetery Board (the “Board”) on August 23, 1972 pursuant to N.J.S.A. 8A:3-9 [now N.J.S.A. 45:27-7]. Respondent has been a New Jersey cemetery company at all times relevant to this matter and is not a municipality.

2. On or about December 15, 2009, the Board received a consumer complaint regarding the general condition of the old wing of the mausoleum; and specifically, regarding the removal of one wall and a stained glass window from the private crypt of Frederick and Amelia

Schimper, without the knowledge or consent of the owners, in order to allow the ingress and egress of visitors to the older wing of the mausoleum by passing directly through the Schimper private crypt. The previously existing doors to the older wing of the mausoleum, having fallen into disrepair, are not able to be used.

3. On or about February 5, 2010, the Board received a letter dated February 3, 2010 from Mr. Edward J. McDermott ("McDermott"), the President of Respondent, in response to the consumer complaint. McDermott asserted that the crypt mentioned in the consumer complaint had been cleaned, and that Respondent is underfunded to perform major building repairs.

4. On or about February 11, 2010, the Board received a reply from the consumer, Ms. Susan L. Scherman, which refuted the assertion of McDermott that the crypt had been cleaned, based upon a repeat visit. The reply demanded that the Schimper Crypt be restored to its original condition, together with repairs to the previously existing doors, and other necessary repairs to the older wing of the mausoleum.

5. On April 8, 2010, Division of Consumer Affairs Investigators Robert DeSevo and Joseph Chickene visited the mausoleum and the private crypt of Frederick Schimper. Although the crypt had been cleaned at that time, the inspection confirmed that one wall of the crypt had been opened to allow ingress and egress to and from the older wing of the mausoleum directly through the Schimper Crypt. Records obtained by the investigators from Respondent on April 9, 2010, indicate that the Schimper Crypt had been purchased in 1916 for the sum of \$14,250.00.

6. On April 21, 2010, the investigators interviewed McDermott at the mausoleum. McDermott informed the investigators that the "old double doors" of the older wing of the mausoleum had been closed for approximately twelve years due to water and support damage.

McDermott told the investigators he did not know what year the wall had been opened in the Schimper Crypt to replace the dysfunctional doors.

7. A diligent search of the Board's records has disclosed no application for, or grant of Board approval for the renovation of the mausoleum involving the removal of a wall and a stained glass window from the Schimper Crypt. (See certification of Dianne Tamaroglio, Executive Director attached hereto and made part hereof as "Exhibit A").

CONCLUSIONS OF LAW

1. The above facts provide grounds for discipline in that Respondent failed, as required by N.J.A.C. 13:44J-15.3, to obtain the permission of the Board or notify the affected crypt owners prior to making renovations affecting their interment space. Pursuant to N.J.S.A. 45:1-22(d), the Board may order Respondent to restore to any person aggrieved by such a violation any moneys or property, real or personal, acquired thereby.

Based on the foregoing findings of fact and conclusions of law, a Provisional Order of Discipline was entered on September 14, 2010, requiring Respondent to restore the Schrimper Crypt to its original condition and to repair the original access doors to the older wing of the mausoleum. A copy was forwarded to Respondent by means of both regular and certified mail to Respondent's address of record. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said

findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.

Accordingly, having considered the matter in light of Respondent's failure to request that a hearing be scheduled, and his failure to provide the Board with any substantive response to the provisional order, and the Board having determined that further proceedings are therefore not necessary, the Board has determined that the Provisional Order should be made final.

ACCORDINGLY, IT IS on this 9th day of February, 2011

ORDERED that:

1. Respondent shall submit to the Board and to the building department of North Bergen plans to restore the Schrimper Crypt to its original condition and to repair the original access doors to the older wing of the mausoleum within six (6) months of the issuance of this Order; and

2. Upon approval of the Board and the building department of North Bergen, Respondent shall perform the restoration and repairs in accordance with the submitted and approved plans within a reasonable time, not to exceed nine (9) months.

NEW JERSEY STATE CEMETERY BOARD

By:



William Nichols, Chair

EXHIBIT A

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Division of Law - Fifth Floor
124 Halsey Street
PO Box 45029
Newark, New Jersey 07101
Attorney for the New Jersey
Cemetery Board

By: John D. Hugelmeyer
Deputy Attorney General
Tel. (973) 648-3453

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY CEMETERY BOARD

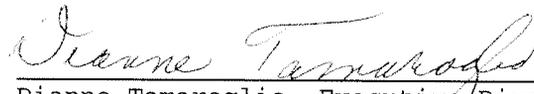
IN THE MATTER OF THE :
 :
BERGEN CREST MAUSOLEUM : Civil Action
 :
Certificate of Authority :
Number 144 : CERTIFICATION
_____ :

I, Dianne Tamaroglio, being of full age, certify and say:

1. I am the Executive Director of the New Jersey Cemetery Board within the Department of Law and Public Safety, Division of Consumer Affairs. In that capacity, on September 8, 2010, I made a thorough search of the Board files associated with the Bergen Crest Mausoleum, Certificate of Authority #144.

2. There is no record on file with the Board of an application being made at any time by Bergen Crest Mausoleum for approval to renovate the private crypt of Frederick and Amelia Schimper at Bergen Crest Mausoleum.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.



Dianne Tamaroglio, Executive Director
New Jersey Cemetery Board

DATED:



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
New Jersey Cemetery Board
124 Halsey Street, 6th Floor, Newark, NJ 07102



PAULA T. DOW
Attorney General

THOMAS R. CALCAGNI
Acting Director

Mailing Address:
P.O. Box 45036
Newark, NJ 07101
(973) 504-6553

February 8, 2011

Edward J. McDermott, President
Bergen Crest Mausoleum
4001 Kennedy Blvd.
North Bergen, New Jersey 07047

Re: Final Order of Discipline

Dear Mr. McDermott:

Enclosed please find a copy of a Final Order of Discipline entered by the New Jersey Cemetery Board finalizing the provisions of the Provisional Order of Discipline issued by the Board on September 22, 2010.

The Final Order is being entered with no modification to the Provisional Order.

Should you have any questions concerning this Order, please do not hesitate to contact the Board office. Thank you very much for your anticipated cooperation.

Sincerely,

Dianne L. Tamaroglio
Executive Director

Enclosures

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee
1. Article Addressed to: <i>Edward J. Mc Donnell</i> <i>President</i> <i>Bryn Crest Mausoleum</i> <i>4001 Kennedy Blvd</i> <i>North Bergen, NJ 07047</i>	B. Received by (Printed Name) _____ C. Date of Delivery <i>2/15/11</i> FEB 17 2011
2. Article Number (Transfer from service label) 7006 2150 0005 5205 2152	D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:
PS Form 3811, February 2004	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
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If To <i>Edward Mc Donnell</i> Street, Apt. No., or PO Box No. <i>Bryn Crest</i> City, State, ZIP+4	
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PS Form 3800, August 2006 See Reverse for Instructions